

Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case: BA 2003161

Variance

Hearing Date:

February 11, 2004

Agenda Item:

9

Supervisory District:

3

Applicant:

Efrian Huerta

Property Owner:

Ed Parker

Request:

Variances to Permit:

- 1) A proposed detached garage to setback 7 feet from the side (west) property line where 30 feet is the minimum required;
- 2) An existing water storage tank to setback 27 feet from the side (east) property line where 30 feet is the minimum required; and
- 3) An existing water storage tank to setback 64 from the front (south) property line where 70 feet is the minimum required in the Rural-43 zoning district.

These variances are requested from the following Zoning Ordinance Section(s):

- 1 & 2) Section 503, Article 503.4.2
- 3) Section 503, Article 503.4.1.a

Site Location:

36626 N. 30th Avenue

Site Size:

106,412 square feet (2.44 acres)

Existing Zoning:

Rural-43

Current Use:

Residential

Citizen

Support/Opposition: Letter from the New River Desert Hills Community Association.

Staff

Recommendation: Deny

Existing On-Site and Surrounding Zoning:

1. On-site: Rural-43
North: Rural-43
South: Rural-43
East: Rural-43
West: Rural-43

Existing On-Site and Surrounding Land Use:

2. On-site: Single family residence
North: Single-family residence
South: Vacant/under construction
East: Vacant
Southeast: Single-family residence
West: Single-family residence

Background:

3. **June 13, 1972:** A 30-foot wide access easement was granted on parcel **203-38-002A**.
4. **June 4, 1992:** The original parcel (**203-38-002A**) was split into two parcels, **203-38-002B** (subject property) and **203-38-002C**.
5. **August 7, 1992:** A building permit (**92078997**) to construct a single-family residence on the subject site was approved.
6. **August 11, 1998:** A building permit (**1998024979-00**) to construct an in ground swimming pool on the subject site was approved.
7. **November 6, 1998:** A building permit (**1998027353-00**) to construct a pool barrier on the subject site was approved.
8. **November 15, 2000:** The subject property was purchased by the current owner.

9. **September 19, 2003:** The owner applied for a building permit (**B20031184**) for a detached garage and storage area.
10. **December 23, 2003:** The applicant applied for the subject variance request.

Findings:

11. **Maricopa County Department of Transportation:** No response at the time this report was written.
12. **Flood Control District:** No objection to the request.
13. **Environmental Services Department:** Environmental Services has no objection to the request although concerns regarding the adjacent property to the east in installing a future septic system may later have concerns with required setbacks for septic systems and wells.
14. **New River/Desert Hills Community Association, Inc.:** The New River/Desert Hills Community Association has written a letter recommending approval of requests #2 and #3, and recommending denial of request #1 (See attached letter).

Site Analysis:

15. The subject site is a rectangular shaped parcel measuring approximately 309 feet in width and 343 feet in depth. The subject property is approximately 2.44 acres or 106,412 square feet in area. The subject property is currently developed with a single-family residence, a swimming pool and an existing water storage tank. The applicant is also proposing to build a 2,268 square foot detached garage. The residence currently sets at a angle on the subject property. The outer corner of the residence, which is a covered patio, setbacks 180 feet from the side (east) property line and 85 feet from the side (west) property line.
16. The property is accessed off of 31st Avenue on the Carriage Drive alignment. Carriage Drive is a gravel road that dead-ends at the subject property. A gate provides access to the subject site via a paved driveway, which is used for ingress/egress up to the residence. An electrical pole is located on the southwest corner of the subject site. An electrical utility line has been placed underground from the electrical pole to the residence.
17. The subject site is located near hillside areas although the subject property itself is not hillside in nature. The subject site has been left in a natural state with natural desert landscaping such as cactus, desert trees and open rocky terrain.

18. The subject site has a 30-foot wide access easement that encroaches the front (south) property line. The photo below is a view of where Carriage Drive ends and the entrance to the subject property begins.



19. The following table is included to illustrate the differences between the base zoning district standards and the standards proposed by the applicant.

Standard	Rural-43 (Zoning District)	Proposed Standard
Front Yard Setback	70-feet**	64-feet**
Rear Yard Setback	40-feet	30-feet
Side (east) Yard Setback	30-feet	27-feet
Side (west) Yard Setback	30-feet	7-feet
Maximum Height	30-feet/2 stories	15-feet/1 story
Minimum Lot Area	43,560 sq.ft.	106,412 sq.ft.
Minimum Lot Width	145-feet	310-feet
Lot Coverage	15%	5.97%

*Standards indicated in **bold** do not meet minimum base zoning standards.

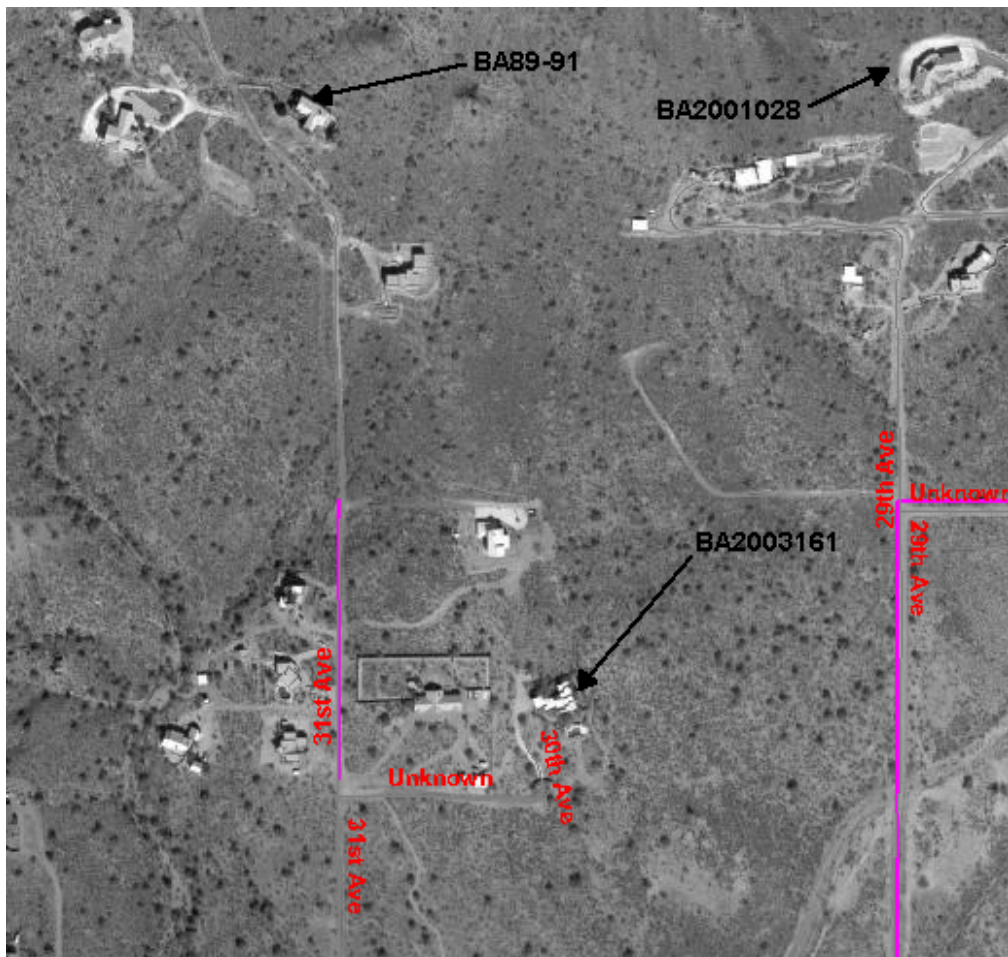
**Setback includes a 30-foot access easement.

Land Use Analysis:

20. The property is located in the Desert Hills area north of Cloud Road and east of I-17. A mile to the east of the subject property are the incorporated limits of the City of Phoenix. Skunk Creek is located a short distance southeast of the subject site.

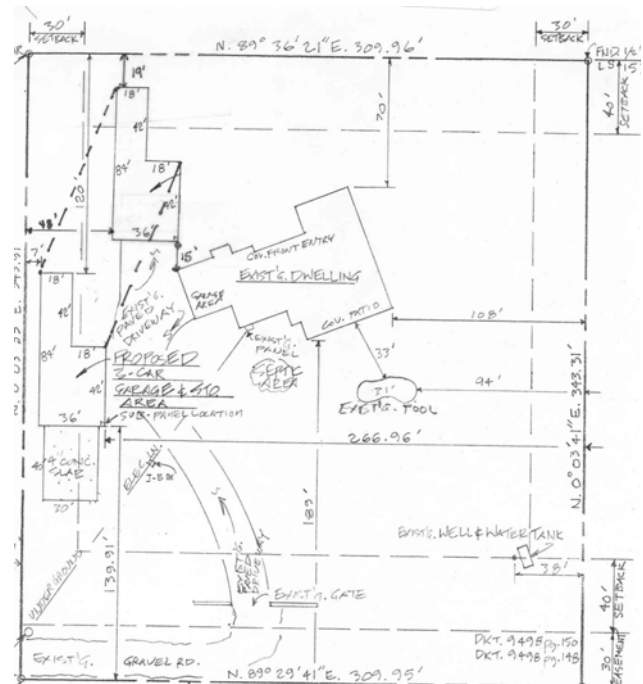
Approximately a mile to the west is Interstate 17 and to the south of the subject property is Cloud road. About ½ mile to the south, located within the City of Phoenix, is the newly developed Tramonto Master Planned Community.

21. This area is developing through the lot splitting process. There are many homes in the area under construction at this time. The majority of the residences in this area appear to be 2,500 square feet in area or larger.
22. Staff research revealed two variance cases have been heard in the immediate area. One of these cases, **BA2001028**, has no real bearing on the subject request. The other case, **BA89-91**, was a request to permit a single-family residence to setback 25 feet from the side (east) property line where 30 feet is the minimum required; and to permit an overhang to setback 23 feet from the side (east) property line where 28 feet is the minimum required in the Rural-43 zoning district. This property is located at 37024 N. 31st Avenue, approximately ¼ mile north of the subject site. The Board approved both of these requests.
23. The following aerial is a view of the area and surrounding development with the above variances:

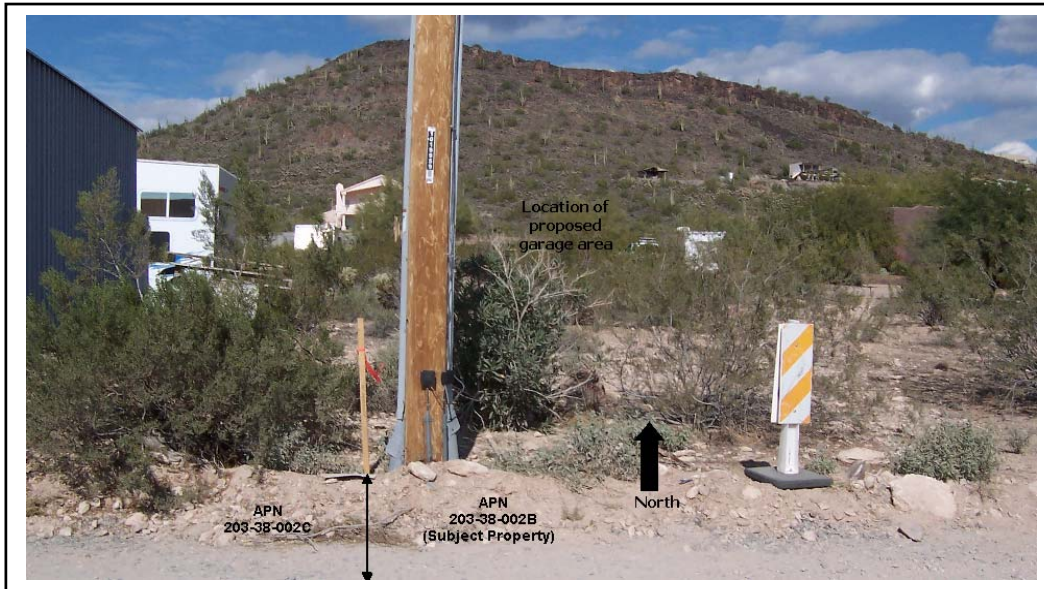


Plan analysis:

24. The first variance request is to build a detached garage 7 feet from the side (west) property line where 30 feet is the minimum required. The proposed 2,268 square foot garage includes a three-car garage of approximately 1,512 square feet, and two storage rooms of approximately 756 square feet. The building height is proposed to be approximately 17 feet 6 inches. The detached garage would be located at the central east side of the subject property and encroach 23 feet into the required minimum side setback in the Rural-43 zoning district.
25. The parcel is over two acres in area and there are no readily apparent physical or topographical hardships that would justify placing the proposed garage in the location shown on the site plan. There also appears to be alternative locations available on this site for the proposed garage that do not require a variance. One possible alternative would be to relocate the proposed structure 105 feet to the north and 48 feet to the east. This would place the structure northwest of the existing residence but would meet all zoning requirements and not require a variance. The existing driveway at the alternative location would not obstruct access to the existing garage that is attached to the single-family residence. This would permit the applicant to pursue the floor plan and square footage proposed. This alternative is depicted in the site plan shown above. Staff recommends that this request be denied.



[next page]



*View looking north from the southwest property corner.

26. The second request is a variance to permit an existing water storage tank to setback 27 feet from the side (east) property line where 30 feet is the minimum required. Although permits have been issued for the existing residence, pool and pool barrier, staff could find no evidence of any permits being issued for this water tank. The water storage tank is an above ground water tank that could be moved slightly to obtain the additional three feet required. As there are alternatives available to the applicant, staff recommends that this request be denied.

27. The third request is related to the second request, which is for an existing water storage

tank to setback 64 feet from the front (south) property line where 70 feet is the minimum required. The required setbacks for the front property line are greater than



the minimum 40-foot setback that is required in the Rural-43 zoning district due to an access easement that was granted on the south 30 feet of subject property. This easement runs along Carriage drive and encompasses 40 feet to the north along 31st Avenue. The easement was created in June of 1972, before the subject property was created. The presence of the easement makes the required setbacks for any structure greater than

the minimum required setbacks. The request is to encroach six feet into a 70-foot

required setback. Staff could find no physical or topographical hardships that would support this request. There are no unusual circumstances associated with the subject property. It appears as though the storage tank can be relocated to meet the required setbacks. Staff believes that if the proper permits had been acquired for the water storage tank, there would be no need for these variance requests. Staff recommends denial of this request.

Recommendation: (BA 2003161)

28. Staff recommends **denial** of these variance requests based on the following:

- The requests conflict with the intent of the Zoning Ordinance.
- There is no unusual or topographical hardship associated with the property.
- The hardship is self-created
- The property owner currently enjoys a reasonable use of the property.

29. Should the Board determine that a reasonable use of the property cannot be made without granting these variances, then these requests may be approved subject to the following stipulations:

- a) The applicant shall obtain as-built permits within 30 days of Board approval.
- b) The applicant shall obtain building permits prior to the commencement of construction.
- c) General Compliance with site plan dated December 23, 2003.

cf

Attachments: Case Map BA 2003161
Zoning Map
Assessor Map
Site Plan
Elevation Plan
Floor plan
Boundary Survey Map
Application
Supplemental Questionnaire (2 pages)
Copy of Recorded Easement Agreement (2 pages)
Letter from New River/Desert Hills Community Association (1 page)
Flood Control District Memo (1 page)